

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

v.

Criminal Action No.
5:18-CR-322 (DNH)

JAMIE PHILLIPS,

Defendant.

SENTENCING MEMORANDUM OF THE UNITED STATES

I. INTRODUCTION

On November 8, 2018, the defendant, Jamie Phillips, entered a plea of guilty to a single-count Information at 18-CR-322, charging him with Conspiracy to Possess with Intent to Distribute and to Distribute Marijuana, in violation of 21 U.S.C. §§ 841(b)(1)(B) and 846. The United States submits this Memorandum in anticipation of sentencing, which is scheduled for April 17, 2019, in Utica, New York.

The Information further alleges the defendant is subject to increased punishment, pursuant to 21 U.S.C. §§ 841(b)(1)(B) and 851, because of the following prior conviction for a serious drug felony, which has become final: on March 1, 2006, in the United States District Court for the Northern District of New York, he was convicted of Conspiracy to Possess with the Intent to Distribute and to Distribute Marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and 846, and was sentenced on August 23, 2006, to a term of imprisonment of 60 months and four years' supervised release. On November 8, 2018, the government filed an Enhanced Penalty Information, which indicates that the United States intends to rely on this conviction for increased penalties, pursuant to 21 U.S.C. § 851.

II. APPLICABLE STATUTORY AND GUIDELINES PROVISIONS

A. Statutory Sentencing Provisions

The government agrees with the recitation of the statutory maximum and minimum terms of incarceration, supervised release, and fines set forth in the final PSR (Doc. No. 13), at paragraphs 62, 66, and 70.

B. Guidelines Provisions

i. Plea Agreement

Pursuant to the plea agreement in this case, the parties have stipulated to certain Guideline levels, as described in the PSR at paragraph 5. The plea agreement also sets forth that the defendant waives any appeal of a sentence of imprisonment of 151 months or less. PSR ¶ 4.

ii. Base Offense Level and Special Offense Characteristics

The government agrees with the Probation Office's calculation of the defendant's total Offense Level under the Sentencing Guidelines, which is 28.

iii. Criminal History Category

The government agrees with the Probation Office's determination that the defendant has a criminal history category of III.

iv. Guidelines Range and Sentence

The government agrees with the Probation Office's determination that the Guidelines Range in this case is 120-121 months, pursuant to U.S.S.G. § 5G1.1(c)(2).

IV. GOVERNMENT'S SENTENCING RECOMMENDATION

As detailed in the Presentence Investigation Report, Mr. Phillips was convicted of a federal marihuana trafficking felony in 2006, and sentenced to a significant period of incarceration on that conviction. He was released from custody in 2009. That conviction and period of incarceration

did not stop Mr. Phillips from continuing to be involved in marihuana trafficking, as he played a pivotal role in brokering marihuana trafficking activities from at least January 2017 to November 2017. His role is reflected in the three level increase pursuant to U.S.S.G. § 3B1.1(b), which applies to the defendant based upon his position as a manager or supervisor of this drug trafficking operation.

The defendant requests a sentence of between 60 and 72 months. With the filing of the Section 851 Information, the mandatory minimum sentence in this case is 120 months, which falls within the Guidelines range.

The government respectfully suggests that after the Court takes into consideration all of the required sentencing factors, and all information provided to the Court, a sentence within the resulting advisory guideline range will be “sufficient, but not greater than necessary,” to comply with the sentencing purposes in 18 U.S.C. § 3553(a)(2).

Dated: March 26, 2019

Respectfully Submitted,

GRANT C. JAQUITH
United States Attorney

By: /s/ Katherine A. King
Katherine King
Assistant U.S. Attorney
Bar Roll No. 700150

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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2019, I filed the **Government's Sentencing Memorandum** with the Clerk of the District Court and sent copies of said documents via ECF to the following:

Stephen Lance Cimino, Esq.

/s/ Brianna Strauss
Brianna Strauss
Legal Assistant